

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

JUN 7 2004

FILE

OFFICE OF
MANAGING DIRECTOR

Jonathan S. Lichstein, Esq.
Corporate Counsel
Valley Broadcasting Company
1500 Foremaster Lane
Las Vegas, NV 89101

Re: Valley Broadcasting Company, KBJN(TV)
Request for Reduction of FY 2003 Regulatory Fee
Fee Control No. 0404078340280001

Dear Mr. Lichstein:

This is in response to your request dated March 26, 2004, filed on behalf of Valley Broadcasting Company (Valley), licensee of Station KBJN(TV), Ely, Nevada, for a reduction of the fiscal year (FY) 2003 regulatory fee from \$30,125.00 to \$4,450.00, and for a corresponding reduction of the associated late charge penalty for late payment of the regulatory fee from \$7,531.25 to \$1,112.50.¹ Our records reflect that KBJN(TV) paid the FY 2003 regulatory fee of \$30,125.00 assessed to KBJN(TV) as a VHF commercial television station in Designated Market Area (DMA) numbers 26-50, as well as the \$7,531.25 associated late charge penalty.

KBJN(TV) is located in Ely, Nevada and is assigned to the Salt Lake City, Utah television market, which is the 36th largest DMA in the country and includes 769,230 television households.² In your request, you assert that the FY 2003 regulatory fee for KBJN(TV) should be reduced to the amount charged to VHF commercial television stations in the Remaining Markets category (i.e., \$4,450.00). You state that Ely, Nevada is located outside the metropolitan area of the principal city in the assigned DMA (i.e., Salt Lake City, Utah). You state, and it in fact appears, that the station does not provide a

¹ Although Valley filed the instant request for reduction of the FY 2003 regulatory fee for KBJN(TV), Harris Broadcasting Company (HBC) filed the initial request for FY 2003 regulatory fee relief for the station on October 21, 2003. The Commission subsequently approved the assignment of KBJN(TV) from HBC to Valley on December 15, 2003, and Valley consummated the assignment on January 13, 2004. See Letter from Mark A. Reger, Chief Financial Officer (CFO), Office of Managing Director (OMD), FCC, to Stephen R. Harris (dated Feb. 27, 2004) (dismissing HBC's request for reduction of the FY 2003 regulatory fee associated with KBJN(TV) because HBC did not include full payment of the regulatory fee or a request to defer payment due to financial hardship and finding that HBC did not substantiate that KBJN(TV) paid the regulatory fee in a timely manner, and therefore, requiring HBC to pay the balance due on the regulatory fee and the late charge penalty).

² See 2003 Television and Cable Factbook at C-40.

Grade B signal to a substantial portion of the assigned market's metropolitan area. You also state that the station's signal does not reach beyond the Nevada border or to the Salt Lake City metropolitan area 250 miles away. You state that KBJN(TV)'s Grade B contour reaches approximately 2,000 households in Ely and surrounding communities.³ You state that the station operates on one cable system and rebroadcasts KVBC(TV), which is the NBC affiliate in Las Vegas, Nevada. You state that although KBJN(TV) "cannot take advantage of the advertising opportunities" of being in the 36th largest DMA in the country, the station "is mandated to pay an extremely high regulatory fee." You state that a grant of the instant request for regulatory fee relief would be consistent with OMD's grant of a waiver request filed by Station KENV(TV), another station located in the Salt Lake City, Utah DMA, for a reduction of fiscal year regulatory fees.⁴ You state that in comparison to KBJN(TV), "[Station] KSL-TV, the NBC affiliate in Salt Lake City, Utah, is broadcast on 52 cable systems and is the largest network of translator stations with 122 translators including a translator in Ely, Nevada, serving 786,030 households in the DMA." You state that KBJN(TV) has not generated any income since it began operating and that "the lack of revenue resources in this area makes it unlikely that any profit can be expected in the future."

The Commission has set standards for determining whether the regulatory fees for a television station may be reduced below the fees assessed for stations in the relevant DMA. *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12763 (1995). The Commission will reduce fees for television stations having certain characteristics. *Id.* Such a station must be located outside the metropolitan area of the principal city in the assigned DMA and may not provide a Grade B signal to a substantial portion of the assigned market's metropolitan areas. *Id.* Stations that meet these criteria and request fee reductions will be assessed regulatory fees based on the number of households they serve; stations that serve fewer television households than are in the top 100th market will be assessed the regulatory fee for Remaining Market stations. *Id.*

We find that because KBJN(TV) is located outside the metropolitan area of the principal city in its assigned DMA and does not provide a Grade B signal to a substantial portion of its market's metropolitan area, KBJN(TV) has met the Commission's standards, as set forth above, for reduction of KBJN(TV)'s regulatory fee for FY 2003. In the absence of Nielsen data reflecting the number of television households covered by KBJN(TV), our review of the record reflects that the station serves approximately 2,000 television

³ In support, you submit the United States Census Bureau's census report for 2000 which indicates that there are 1,727 households in Ely, Nevada. See <http://censtats.census.gov/data/NV/1603223500.pdf> You state that KBJN(TV) covers approximately 100 to 150 additional households outside the city of Ely, Nevada. We note that the *2003 Television and Cable Factbook* does not contain Nielsen data reflecting the number of television households served by KBJN(TV).

⁴ Citing Letter from Mark A. Reger, CFO, OMD, FCC, to James E. Rogers (dated Mar. 7, 2001).

households and thus serves fewer households than a station in the top 100th market.⁵ We therefore find that it is appropriate that KBJN(TV) be treated as comparable to a VHF commercial television station in the Remaining Markets and be subject to a \$4,450.00 regulatory fee for FY 2003.⁶

Accordingly, we grant your request to treat KBJN(TV) as comparable to a VHF commercial television station in the Remaining Markets subject to a \$4,450.00 regulatory fee for FY 2003 and we also grant your request to reduce the late charge penalty to \$1,112.50. For purposes of regulatory fee assessments in subsequent years, and absent significant changes in the factual situation, KBJN(TV) will not be treated as a station in the Salt Lake City, Utah DMA. KBJN(TV) will be required to submit the regulatory fee for VHF commercial television stations in the Remaining Markets. You should note that KBJN(TV) is under a continuing obligation to report to the Commission any changes in its operations that could affect its qualification for a regulatory fee reduction. Finally, you should retain this letter and submit a copy of it with any future correspondence with the Commission concerning the regulatory fee for KBJN(TV).

A check made payable to the maker of the original check, and drawn in the amount of \$32,093.75, reflecting the difference between KBJN(TV)'s FY 2003 regulatory fee assessment as a VHF commercial television station in market numbers 26-50 and the associated late charge penalty (i.e., \$30,125.00 and \$7,531.25, respectively) and the amount charged to a VHF Remaining Market station and the associated late charge penalty (i.e., \$4,450.00 and \$1,112.50, respectively), will be sent to you at the earliest practicable time.

If you have any questions concerning this letter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



 Mark A. Reger
Chief Financial Officer

⁵ The 100th largest DMA (i.e., Youngstown, Ohio) covers 277,760 television households, while stations in market numbers 101 and higher (i.e., the Remaining Markets under the regulatory fee rules) cover 276,330 and fewer television households. *2003 Television and Cable Factbook* at C-40.

⁶ See C.F.R. §1.1153.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Harris Broadcasting Company, KBJN (TV)
Request for Reduction of FY 2003
Regulatory Fee

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Fee Control No. 0310308835215001

To: Office of Managing Director

**PETITION FOR THE REDUCTION OF THE FY 2003 REGULATORY FEE FOR
STATION KBJN(TV), ELY, NEVADA**

Pursuant to Section 1.1166(d) of the Commission's rules, Valley Broadcasting Company ("Valley"), hereby submits the full regulatory fee for Fiscal Year 2003 and comments in opposition to the assessed regulatory fee for Fiscal Year 2003 for television KBJN(TV), Channel 3, Ely, Nevada.

The Commission approved the assignment of KBJN(TV) to Valley from Harris Broadcasting Company ("Harris") on December 15, 2003. Valley consummated the assignment of KBJN on January 13, 2004. On October 21, 2003, Harris requested a reduction in the 2003 regulatory fee from \$30,125 to \$4,450. In its request, Harris submitted \$4,450 to the Commission along with a twenty five percent (25%) late fee equaling \$1,112.50. On February 27, 2004, the Commission's Office of Managing Director denied Harris' request for a reduction of the regulatory fee because the request "must be accompanied by the full fee payment and Form 159."

In accordance with 47 C.F.R. § 1.1166(d), Valley submits \$32,093.75, the remainder of the full regulatory fee along with the additional amount for the twenty five percent (25%) late fee. Pursuant to Section 1.1166 of the Commission's rules, Valley requests a reduction in the

proposed regulatory fee to \$4,450, the Remaining Markets fee, plus a twenty-five percent late fee of \$1,112.50.

The regulatory fee assigned to KBJN(TV) in Ely, Nevada is exorbitant. This station's Grade B contour reaches approximately 2,000 households in Ely and surrounding communities. However, Ely is placed in the Salt Lake City, Utah DMA, the 36th largest television market in the country. The KBJN(TV) signal does not reach beyond the Nevada border or to the Salt Lake City metropolitan area 250 miles away. Therefore, while KBJN(TV) cannot take advantage of the advertising opportunities of being in a large DMA, it is mandated to pay an extremely high regulatory fee. KBJN(TV) rebroadcasts KVBC(TV), the NBC affiliate in Las Vegas, Nevada. KBJN(TV) is only on one cable system reaching 2,000 households. In comparison, KSL-TV, the NBC affiliate in Salt Lake City, is broadcast on 52 cable systems and "the largest network of translator stations of any television station"¹ with 122 translators, including a translator in Ely, Nevada, serving 786,030 households in the DMA.

KBJN(TV) has not generated any income since beginning operations. The station was constructed to provide residents in an extremely rural area of Nevada with free, over the air television. KBJN(TV) already operates at maximum efficiencies with a small staff and the use of satellite programming from its sister station, KVBC(TV), Las Vegas, Nevada. Furthermore, the lack of revenue resources in this area makes it unlikely that any profit can be expected in the future. The levy of such a high fee on KBJN(TV) does not serve the public interest because it could cause the loss of over-the-air broadcast television. KBJN(TV) is the only licensed full-power television station in Ely, Nevada.

The prospect of paying an exorbitant fee for a station located within a large DMA is not unique to Valley or its parent company Sunbelt Communications Company. Ruby Mountain

¹ <http://tv.ksl.com/index.php?sid=3283&nid=53>.

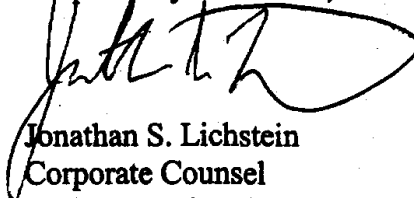
Broadcasting Company, a subsidiary of Sunbelt Communications Company, operates KENV, Channel 10, in Elko, Nevada. KENV(TV) is also designated to the Salt Lake City, Utah DMA and serves approximately 16,750 households. Both KENV(TV) and KBJN(TV) are located outside the metropolitan area of the principal city in the assigned DMA, Salt Lake City, Utah. Neither KENV(TV) nor KBJN(TV) provides a Grade B signal to a substantial portion of the assigned market's metropolitan area. On March 7, 2001, the Commission granted the request for Waiver and Reduction in Regulatory Fees for KENV(TV). A copy of the letter order is attached as Exhibit A. The Commission should follow its previous actions in Elko and apply them in this case.

The Commission will permit a reduction in a station's regulatory fee if the station is located outside the metropolitan area of the principal city in the DMA and a Grade B signal cannot reach the metropolitan area.² KBJN meets both requirements. By paying the full amount of the regulatory fee, KBJN(TV) would pay \$12,000 more than the originating station, KVBC(TV) in Las Vegas, while serving 598,000 fewer TV households. Clearly this is an inequity that needs to be corrected.

Valley respectfully requests the fee regulatory fee be reduced to the level paid by stations serving fewer households than the top 100 market, and the amount included in this filing be refunded.

² See Implementation of Section 9 of the Communications Act, 10 FCC Red 12759, 12763 (1995).

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jonathan S. Lichstein", written over the printed name.

Jonathan S. Lichstein
Corporate Counsel
Valley Broadcasting Company
1500 Foremaster Lane
Las Vegas, Nevada 89101
Tel: (702) 642-3333

Dated: March 26, 2004

EXHIBIT A

RE: REQUEST FOR WAIVER AND REDUCTION OF REGULATORY FEES

FOR KENV(TV); MARCH 7, 2001

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 7 2001

OFFICE OF
MANAGING DIRECTOR

James E. Rogers
President
Ruby Mountain Broadcasting Company
1025 Chilton Circle
Elko, Nevada 89801

RE: Request for Waiver and Reduction of
Regulatory Fees for Fiscal Year 2000
KENV (TV)
Fee Control No. 0009158835240003
Fee Paid \$22,750.00

Dear Mr. Rogers:

This is in response to the petition for reduction of regulatory fee for Fiscal Year (FY) 2000, filed by Ruby Mountain Broadcasting Company, licensee of Channel 10, KENV(TV), Elko, Nevada. That petition seeks a refund of \$19,450.00, which reflects the difference between the 2000 regulatory fee assessment (\$22,750.00) and the amount charged to VHF television stations (\$3,300.00) in the remaining market category (markets 101 and above).

The Commission has set standards for determining whether the regulatory fees for a television station may be reduced below the fees assessed for stations in the relevant Designated Market Area. *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12763 (1995). The Commission will reduce fees for television stations having certain characteristics. *Id.* Such a station must be located outside the metropolitan area of the principal city in the assigned DMA, and may not provide a Grade B signal to a substantial portion of the assigned market's metropolitan areas. *Id.* Stations that meet these criteria and request fee reductions will be assessed regulatory fees based on the number of households they serve; stations that serve fewer television households than are in the top 100th market will be assessed the regulatory fee for remaining market stations. *Id.*

Ruby Mountain argues that, although KENV(TV) is listed as being within the Salt Lake City, Utah DMA, good cause exists for reduction of its regulatory fee. In this regard, Ruby Mountain contends that it does not operate (nor serve the viewers) in the Salt Lake City television market, that KENV(TV)'s signal does not reach beyond the Nevada border, and that its signal reaches approximately 16,750 households. In fact, it appears that Ruby Mountain's station is located outside the metropolitan area of the principal city

James E. Rogers

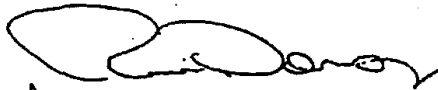
2

in its assigned DMA, that it does not provide a Grade B signal to a substantial portion of its market's metropolitan area, and that it serves fewer television households than are in the top 100th market. See *2000 Television & Cable Factbook*. In light of these circumstances, KENV(TV) has met the Commission's standards, as set forth above, for reduction of its regulatory fee for FY 2000 and your petition for reduction of regulatory fee is therefore granted.

For purposes of regulatory fee assessments in subsequent years, and absent significant changes in the factual situation, KENV(TV) will not be treated as a station in the Salt Lake City, Utah, DMA. KENV(TV) will be required to submit the regulatory fee for the market with the number of television households closest to, but not lower than, the figures for KENV(TV) as reported in the *Television & Cable Factbook* for that year. You should note that KENV(TV) is under a continuing obligation to report to the Commission any changes in its operations that could affect its qualification for regulatory fee reduction. Finally, you should retain this letter and submit a copy of it with any future correspondence with the Commission concerning the regulatory fee for KENV(TV).

A check made payable to the maker of the original check, and drawn in the amount of \$19,450.00, will be provided at the earliest practicable time. If you have any questions concerning this letter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer

SUNBELT

COMMUNICATIONS COMPANY

Committed to Excellence in Broadcasting and Education

Corporate Headquarters

1500 Foremaster Lane, Las Vegas, NV 89101
Phone -702-642-3333 - Fax 702-642-3093
Ch3@kvbc.com

March 26, 2004

NBC Channel 3 - KVBC
Las Vegas, Nevada
702-642-3333

NBC Channel 4 - KRN
Reno, Nevada
775-322-4444

NBC Channel 10 - KENV
Elko, Nevada
775-777-8500

NBC Channel 7 - KWNV
Winnemucca, Nevada
775-322-4444

NBC Channel 3 - KBJN
Ely, Nevada
702-642-3333

NBC Channel 9 - KBMO
Tonopah, Nevada
702-642-3333

NBC Channel 11 - KYMA
Yuma, Arizona
928-782-1111

NBC Channel 6 - KPVI
Pocatello, Idaho
208-232-6666

NBC Channel 12 - KTVH
Helena, Montana
406-457-1212

NBC Channel 9 - KBBJ
Havre, Montana
406-457-1212

NBC Channel 13 - KBAO
Lewistown, Montana
406-457-1212

NBC Channel 13 - KCWY
Casper, Wyoming
307-577-0013

NBC Channel 13 - KCHY
Cheyenne, Wyoming
307-577-0013

NBC Channel 2 - KJWY
Jackson, Wyoming
307-733-2066

NBC Channel 7 - KSWY
Sheridan, Wyoming
307-577-0013

FOX Channel 35 - KXTF
Twin Falls, Idaho
208-733-0035

DELIVERY VIA FEDERAL EXPRESS

Federal Communications Commission
Regulatory Fees
c/o Mellon Client Service Center
500 Ross Street, Room 670
Pittsburgh, PA 15262-0001
Attn: Petitions

Re: Regulatory Fees for Fiscal Year 2003 KBJN(TV)

Dear Sir or Madam:

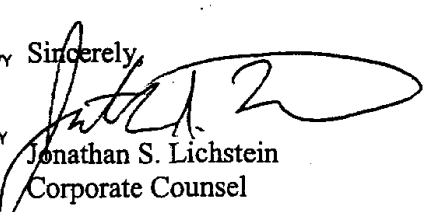
Valley Broadcasting Company ("Valley"), the licensee of KBJN(TV), Channel 3 (Facility #86537) submits the balance due of the FY 2003 of \$25,675, plus the balance of the 25 percent late charge of \$6,418.75 for a total of \$32,093.75. A Form 159 is also included with the balance.

Additionally, pursuant to Section 1.166 of the Commission's rules, Valley submits a petition for a reduction in the FY 2003 regulatory fee for KBJN(TV).

An extra copy of this letter, along with a self-addressed stamped envelope, is enclosed. Please date stamp the extra copy of this letter and return it in the envelope provided.

Please contact me if any additional information is required.

Sincerely,


Jonathan S. Lichstein
Corporate Counsel

Enclosure

Other Sunbelt Companies



Las Vegas Locations
Rainbow and 95 North
West Sahara and Paseo del Prado
Stephanie and Warm Springs
Rampart and West Charleston



SUNBELT
AUTO COLLECTION
Antique and Classic
Automobile Sales
Las Vegas Office
702-642-1714

READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE

Approved by OMB
3060-0589
Page: 1 of 1

(1) LOCK BOX # 358835		FCC/MELLON		MAR 29 2004	
SECTION A - PAYER INFORMATION					
(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card) Valley Broadcasting Company			(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) \$32,093.75		
(4) STREET ADDRESS LINE NO. 1 1500 Foremaster Ln.					
(5) STREET ADDRESS LINE NO. 2					
(6) CITY Las Vegas			(7) STATE NV	(8) ZIP CODE 89101	
(9) DAYTIME TELEPHONE NUMBER (include area code) (702) 642-3333			(10) COUNTRY CODE (if not in U.S.A.)		
FCC REGISTRATION NUMBER (FRN) REQUIRED					
(11) PAYER (FRN) 0001594043					
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C) COMPLETE SECTION BELOW FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET					
(13) APPLICANT NAME					
(14) STREET ADDRESS LINE NO. 1					
(15) STREET ADDRESS LINE NO. 2					
(16) CITY			(17) STATE	(18) ZIP CODE	
(19) DAYTIME TELEPHONE NUMBER (include area code)			(20) COUNTRY CODE (if not in U.S.A.)		
FCC REGISTRATION NUMBER (FRN) REQUIRED					
(21) APPLICANT (FRN)					
COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET					
(23A) CALL SIGN/OTHER ID KBJN		(24A) PAYMENT TYPE CODE 0355		(25A) QUANTITY 1	
(26A) FEE DUE FOR (PTC) 25,675. ⁰⁰ \$32,093.75		(27A) TOTAL FEE \$32,093.75 25,675. ⁰⁰			
(28A) FCC CODE 1 86537		(29A) FCC CODE 2 NV E17			
(23B) CALL SIGN/OTHER ID		(24B) PAYMENT TYPE CODE 0399		(25B) QUANTITY	
(26B) FEE DUE FOR (PTC)		(27B) TOTAL FEE 6,418.75			
(28B) FCC CODE 1		(29B) FCC CODE 2			
SECTION D - CERTIFICATION					
CERTIFICATION STATEMENT I, <u>Thomas J. Lichstein</u> , certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.					
SIGNATURE <u>[Signature]</u>			DATE <u>3/26/04</u>		
SECTION E - CREDIT CARD PAYMENT INFORMATION					
MASTERCARD _____ VISA _____ AMEX _____ DISCOVER _____					
ACCOUNT NUMBER _____			EXPIRATION DATE _____		
I hereby authorize the FCC to charge my credit card for the service(s)/authorization herein described.					
SIGNATURE _____			DATE _____		

SEE PUBLIC BURDEN ON REVERSE

FCC FORM 159

FEBRUARY 2003 (REVISED)

APR 12 2004

AR012-A
4/26/2004
10:41:34

RAMIS ACCOUNTS RECEIVABLE - (c) DSG, Inc.
RECEIPTS DETAIL REPORT
SORTED BY TRANSACTION DATE, CD No., FEE CONTROL No.

PAGE 1
4/26/2004
10:41:34

CD No.	CD DATE	FEE CONTROL No.	FRN	PAYER NAME	TRANSACTION DATE	RECEIPT AMOUNT
560954	4/07/04	0404078340280001A	0001594043	Valley Broadcasting Company	4/13/04	\$32,093.75
Billing No. 04RE005315 Seq: 1 Call Sign: FCC Code 1: FCC Code 2: Tin Number:						
PTC: 03MS QTY: 0 Applied Amt: 25675.00 + FCC Code 2: Tin Number:						
Applicant Name: Address:						
Billing No. 04RE005315 Seq: 2 Call Sign: FCC Code 1: FCC Code 2: Tin Number:						
PTC: 0399 QTY: 0 Applied Amt: 6418.75 FCC Code 2: Tin Number:						
Applicant Name: Address:						
Total Applied:			\$32,093.75		Total Receipt: \$32,093.75	

fee

25,675
4450
P 30,125.00

Per

1112.50
6418.25
7,531.25

AR012-A
6/01/2004
16:31:15

RAMIS ACCOUNTS RECEIVABLE - (c) DSG, Inc.
RECEIPTS DETAIL REPORT
SORTED BY TRANSACTION DATE, CD No., FEE CONTROL No.

PAGE 1
6/01/2004
16:31:15

CD NO.	CD DATE	FEE CONTROL NO.	FRN	PAYER NAME	TRANSACTION DATE	RECEIPT AMOUNT
560836	10/30/03	0310308835215001	0001594043	Valley Broadcasting Company	10/29/03	\$5,562.50
Seq: 1 Call Sign: KBJN FCC Code 1: 86537 FCC Code 2: NVELY Tin Number:						
QTY: 1 Applied Amt: 4450.00						
PTC: 0357						
Applicant Name: HARRIS BROADCASTING COMPANY						
Address: 417 WEST PLUMB LANE						
Seq: 2 Call Sign: FCC Code 1: FCC Code 2: Tin Number:						
QTY: 1 Applied Amt: 1112.50						
PTC: 0399						
Applicant Name: HARRIS BROADCASTING COMPANY						
Address: 417 WEST PLUMB LANE						
Total Applied:				\$5,562.50	Total Receipt:	\$5,562.50